

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO.: 3:10-CV-528**

KENNETH H. TATE)	
)	
Plaintiff,)	
)	
v.)	
)	
MAIL CONTRACTORS OF AMERICA,)	
INC., DEE TODD AND LEWIS)	
PETERSON)	
Defendants.)	
_____)	

THIS MATTER is before the Court on Plaintiff's Motion for Default Judgment as to Dee Todd and Lewis Peterson [D.I. 12]. For the reasons laid out below, the Plaintiff's Motion is **DENIED.**

The Plaintiff filed a complaint with this Court on October 21, 2010 alleging violations of Title VII of the Civil Rights Act of 1964, as amended. [D.I. 1]. In his complaint, he lists Mail Contractors of America, Dee Todd and Lewis Peterson as Defendants. In the Summons issued to the Plaintiff, Plaintiff only listed Mail Contractors of America as the Defendant in this case. [D.I. 2]. The Proof of Service the Plaintiff filed also acknowledged that only Mail Contractors of America was served. [D.I. 3]. As the Defendants point out in their response to Plaintiff's Motion, Federal Rule of Civil Procedure 4(b) requires that "[a] summons—or a copy of a summons that is addressed to multiple defendants—must be issued for each defendant to be served." Fed. R. Civ. P. 4(b). There is no evidence in the record that Defendants Dee Todd and Lewis Peterson have ever been properly served with process. As a result, default judgment is not appropriate. Additionally, Defendants Todd and Peterson joined in Defendant Mail Contractors

of America's Motion to Dismiss. These Defendants have thereby answered the Plaintiff's complaint. The Plaintiff's Motion for Default Judgment is hereby **DENIED**.

Signed: April 7, 2011

A handwritten signature in black ink, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

